



FH

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

ENE/149696

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed May 30, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Energy - Milwaukee County in regard to Energy Assistance, a hearing was held on September 18, 2013, at Milwaukee, Wisconsin.

NOTE: The record was held open until September 20, 2013, to give Petitioner an opportunity to provide a statement from her son concerning whether he was living with her and/or earning income. No documentation was submitted by the designated deadline.

The issue for determination is whether petitioner's appeal was timely filed.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Administration  
101 East Wilson Street  
Madison, Wisconsin 53703

By: Valerie Jenkins, Utility Department Manager,  
Community Advocates  
Milwaukee, WI

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.

2. On January 16, 2013, the Social Development Commission sent Petitioner a notice indicating that it was denying her application for energy assistance, because she withdrew her application. (Exhibit 2)
3. The petitioner filed a hearing request that was received by the Division of Hearings and Appeals on May 30, 2013. (Exhibit 1)

### **DISCUSSION**

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by the Department, or its agents, concerning the Wisconsin Housing and Energy Assistance Program (WHEAP) must be filed within 45 days of the date of the action. *WHEAP Manual §1.8.2*; See, WI Admin Code §HA 3.05(3); see also, WI Admin Code §HA 3.03(1); and see, WI Admin Code §HA 3.02(15). A negative action can be the denial of an application, the reduction of benefits or the termination of an ongoing case. The petitioner's appeal was filed on May 30, 2013, 134 days after the January 16, 2013 date of the action. Thus, it was untimely, and no jurisdiction exists for considering the merits of the case.

Even if jurisdiction existed to review the merits of Petitioner's case, it appears the agency acted correctly. It is undisputed that Petitioner withdrew her application because she was frustrated with the application process and because she moved into government assisted housing and no longer paid utilities. Further, pursuant to the WHEAP Manual §§2.2.5 and 2.2.5.2, Petitioner was no longer eligible to receive WHEAP benefits, because she no longer had an obligation to pay energy bills once she moved into the government assisted housing.

It should be noted that Petitioner raised concerns regarding a prior application being denied for failing to provide verification of income from her son. However, again, any appeal of a prior denial would be untimely and no jurisdiction exists to hear the merits of that case.

### **CONCLUSIONS OF LAW**

There is no jurisdiction as the appeal is untimely.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Administration. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 101 East Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 17th day of October, 2013.

---

\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Wayne J. Wiedenhoeft, Acting Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 17, 2013.

Energy - Milwaukee County  
DOA - Energy Assistance